

## B. REMARKS

By this amendment, Claims 10 and 28 have been canceled and Claims 1-9, 11-12, 16-17, 19-27, 29-30, 34-35 and 39 have been amended. Hence, Claims 1-9, 11-27, 29-36, 39 and 41 are pending in this application. The amendments to the claims do not add any new matter to this application and were made to improve the readability and clarity of the claims. All issues raised in the Final Office Action mailed February 15, 2006 are addressed hereinafter.

### REJECTION OF CLAIMS 1-36, 39 AND 41 UNDER 35 U.S.C. § 103(a)

In the Final Office Action, Claims 1-36, 39 and 41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Crooks et al.*, U.S. Patent No. 5,930,773 (hereinafter “*Crooks* ’773”) in view of *Crooks et al.*, U.S. Patent No. 5,943,656 (hereinafter “*Crooks* ’656”). It is respectfully submitted that Claims 1-9, 11-27, 29-36, 39 and 41 are patentable over *Crooks* ’773 and *Crooks* ’656 for at least the reasons provided hereinafter.

### CLAIM 1

Claim 1 is directed to a method for determining an amount to be billed to a customer for the use of computing resources. Claim 1 recites:

“determining usage data that indicates usage, by the customer during a specified period of time, of a set of one or more computing resources assigned exclusively to the customer, wherein over time, computing resources may be de-allocated from the set of one or more computing resources assigned exclusively to the customer and additional computing resources may be allocated to the set of one or more computing resources assigned exclusively to the customer from a plurality of computing resources; and in a computer system determining the amount to be billed to the customer based upon the usage data and value data wherein, the value data specifies a number of service units that each computing resource from the set of one or more computing resources is capable of providing per unit time.”

It is respectfully submitted that Claim 1 is patentable over *Crooks* '773 and *Crooks* '656 because Claim 1 recites one or more limitations that are not taught or suggested by *Crooks* '773 and *Crooks* '656, considered alone or in combination. For example, the Claim 1 limitation “determining usage data that indicates usage, by the customer during a specified period of time, of a set of one or more computing resources assigned exclusively to the customer, wherein over time, computing resources may be de-allocated from the set of one or more computing resources assigned exclusively to the customer and additional computing resources may be allocated to the set of one or more computing resources assigned exclusively to the customer from a plurality of computing resources,” is not taught or suggested by *Crooks* '773 or *Crooks* '656 taken alone or in combination.

*Crooks* '773 describes a utility resource management system that receives resource usage information that indicates consumption of resources by customers. The utility resource management system processes the resource usage information and generates computer-viewable data that indicates a customer's consumption of one or more resources. The computer-viewable data may be accessed by customers through interface devices and presented in different formats, for example, in graphical, numerical, or tabulated reports. *Crooks* '656 describes a system for providing computerized consolidation of bills. This includes consolidating individual amounts payable to different billing entities.

*Crooks* '773 or *Crooks* '656 taken alone or in combination does not teach or suggest determining usage data for a set of computing resources assigned exclusively to a customer, where over time, computing resources may be de-allocated from the set of one or more computing resources assigned exclusively to the customer and additional computing resources may be allocated to the set of one or more computing resources assigned exclusively to the

customer from a plurality of computing resources.” The resources described in *Crooks* `773 are utilities, such as electricity, gas, water, etc., and not computing resources as described in Claim 1. Furthermore, there is no mention of de-allocating existing computing resources from a set of computing resources **assigned exclusively to a customer** or allocating additional computing resources to the set of computing resources **assigned exclusively to the customer**. *Crooks* `773 describes that customers can view utility usage data in different formats and views, but there is no mention or suggestion of **computing resources assigned exclusively to a customer**, as recited in Claim 1. The utility resources described in *Crooks* `773 are shared among customers. Additionally, nothing in *Crooks* `656 teaches or suggests **computing resources assigned exclusively to a customer**.

It is also respectfully submitted that the Claim 1 limitation “in a computer system determining the amount to be billed to the customer based upon the usage data and value data, **wherein the value data specifies a number of service units that each resource from the set of one or more resources is capable of providing per unit time**” is not taught or suggested by *Crooks* `773 or *Crooks* `656.

There is no teaching or suggestion in *Crooks* `656 or *Crooks* `773 of determining an amount to bill a customer based upon usage of computing resources by the customer **and value data**. **Value data specifies “a number of service units that each computing resource from the set of one or more computing resources is capable of providing per unit time,”** as recited in Claim 1. In sharp contrast, *Crooks* `656 and *Crooks* `773 determines the amount to bill a customer based solely upon usage of the utility resource. Nothing in either *Crooks* `656 or *Crooks* `773 teaches or suggests using value data, which indicates an amount the resource is capable of providing per unit of time. Utilities, such as electricity, gas, water, etc. are not billed

to customers based on how much the utility provider is capable of providing per unit of time, but rather based upon the amount of services the customer actually consumes.

In view of the foregoing, it is respectfully submitted that Claim 1 recites one or more limitations that are not in any way taught or suggested by *Crooks* '773 or *Crooks* '656 taken alone or in combination and that, Claim 1 is therefore patentable over *Crooks* '773 and *Crooks* '656.

#### CLAIMS 2-9 and 11-18

Claims 2-9 and 11-18 all depend from Claim 1 and include all of the limitations of Claim 1. It is therefore respectfully submitted that Claims 2-9 and 11-18 are patentable over *Crooks* '773 and *Crooks* '656 for at least the reasons set forth herein with respect to Claim 1. Furthermore, it is respectfully submitted that Claims 2-9 and 11-18 recite additional limitations that independently render them patentable over *Crooks* '773 and *Crooks* '656.

#### CLAIMS 19-27 and 29-36

Claims 19-27 and 29-36 recite limitations similar to Claim 1-9 and 11-18, except in the context of computer-readable media. It is therefore respectfully submitted that Claims 19-27 and 29-36 are patentable over *Crooks* '773 and *Crooks* '656 for at least the reasons set forth herein with respect to Claims 1-9 and 11-18.

#### CLAIMS 39 AND 41

Claims 39 and 41 recite limitations similar to Claim 1, except in the context of apparatuses. It is therefore respectfully submitted that Claims 39 and 41 are patentable over *Crooks* '773 and *Crooks* '656 for at least the reasons set forth herein with respect to Claim 1.

In view of the foregoing, it is respectfully submitted that Claims 1-41 are patentable over *Crooks* '773 and *Crooks* '656.

### CONCLUSION

It is respectfully submitted that all of the pending claims are in condition for allowance and the issuance of a notice of allowance is respectfully requested.

If any applicable fee is missing or insufficient, the Commissioner is hereby authorized to charge any applicable fees and to credit any overpayments to our Deposit Account No. 50-1302.

The Examiner is invited to contact the undersigned by telephone if the Examiner believes that such contact would be helpful in furthering the prosecution of this application.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP



Edward A. Becker

Reg. No. 37,777

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2055 Gateway Place, Suite 550  
San Jose, CA 95110-1089  
(408) 414-1080 ext. 204  
Facsimile: (408) 414-1076

#### CERTIFICATE OF MAILING

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on March 29, 2006 by

  
Jennifer Newell